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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,975	03/07/2002	Gordon C. Dowen	TEP0140-02	2971

832 7590 09/09/2003

BAKER & DANIELS
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SUITE 800
FORT WAYNE, IN 46802

EXAMINER

PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SIN

Office Action Summary	Application No.	Applicant(s)	
	10/092,975	DOWEN ET AL.	
	Examiner	Art Unit	
	Benjamin A Pezzlo	3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is unclear which elements allow for relative movement.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1, 2, 4-8, 10, and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lottridge et al. (US 3780834).

Lottridge et al. disclose a small utility vehicle including a vehicle frame (inherent to a vehicle with brakes), a transaxle (see Figs. 1 and 2) having a casing attached to the frame, a pair of axles 14 extending along a common axis, each of the axles rotatably disposed in and having a portion extending from the transaxle casing, a pair of wheels 24 each of the wheels rotationally fixed to a respective one of the axles, a pair of brake discs 18 each of the brake discs having a collar portion 50 defining an opening therethrough,

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each of the brake discs being mounted on a respective one of the axles, the axles extending through the collar portion openings, and the brake discs disposed between a respective one of the wheels and the transaxle casing, each of the brake discs being rotationally fixedly engaged to a respective one of the wheels, and a pair of braking mechanisms 26 externally mounted on the transaxle casing proximate to a location where a respective one of the axles extends from the transaxle casing, each of the braking mechanisms being brakingly engageable with a respective one of the braking discs.

Re claims 2 and 18, note that the axles are solid at the location of mounting, see 58.

Re claims 4 and 19, see lug 72.

Re claims 5-8 and 10, see Figs. 1 and 2.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lottridge et al. (US 3780834) in view of von Kaler et al. (US 4726256).

Lottridge et al. fail to disclose the transaxle being hydrostatic. Kaler et al. disclose a hydrostatic transmission with braked axles. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was

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made to have provided the brakes of Lottridge et al. on a hydrostatic transaxle according to Kaler et al. in order to provide the brakes integrally with the transaxle.

7. Claims 11-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lottridge et al. (US 3780834) in view of Hauser (US 3485329).

Lottridge et al. disclose the brake being hydraulic and thus fail to disclose the brake being a cammed puck. Hauser discloses a transmission brake including a cammed puck setup. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the brake of Lottridge et al. as a cammed puck, as opposed to hydraulic, in order to avoid hydraulic brakes.

Re claim 12, note that the axles are solid at the location of mounting, see 58.

Re claim 14, see lug 72.

Re claims 15-16, see Figs. 1 and 2.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koike et al., Jirousek et al., Frost, Watanabe, and Wenzel disclose related devices.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Benjamin A. Pezzlo
9/3/03

Benjamin A Pezzlo
Examiner
Art Unit 3683

BAP
September 3, 2003